



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[DA 18-12]

Annual Adjustment of Civil Monetary Penalties to Reflect Inflation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Inflation Adjustment Act) requires the Federal Communications Commission to amend its forfeiture penalty rules to reflect annual adjustments for inflation in order to improve their effectiveness and maintain their deterrent effect. The 2015 Inflation Adjustment Act provides that the new penalty levels shall apply to penalties assessed after the effective date of the increase, including when the penalties whose associated violation predate the increase.

DATES: Effective [Insert date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Lisa Gelb, Enforcement Bureau, 202-418-1479.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, DA 18-12, adopted and released on January 5, 2018. The document is available for download at

http://transition.fcc.gov/Daily_Releases/Daily_Business/2018/db0105/DA-18-12A1.pdf.

The complete text of this document is also available for inspection and copying during

normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY-A257, Washington, DC 20554.

The Bipartisan Budget Act of 2015 included, as Section 701 thereto, the 2015 Inflation Adjustment Act, which amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410), to improve the effectiveness of civil monetary penalties and maintain their deterrent effect. Under the act, agencies are required to make annual inflationary adjustments by January 15 each year. The adjustments are calculated pursuant to Office of Management and Budget (OMB) guidance. OMB issued guidance on December 15, 2017, and this Order follows that guidance. We therefore update the civil monetary penalties set forth in the Commission's rules, to reflect an annual inflation adjustment that derives from OMB's cost-of-living multiplier of 1.02041.

Paperwork Reduction Act

This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4).

Congressional Review Act

The Commission will send a copy of this Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Penalties.

FEDERAL COMMUNICATIONS COMMISSION.

Lisa S. Gelb,
Deputy Chief, Enforcement Bureau.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 1 as follows:

PART 1---PRACTICE AND PROCEDURE

1. The authority citation for part 1 is revised to read as follows:

AUTHORITY: 47 U.S.C. 34-39, 151, 154(i), 154(j), 155, 157, 160, 201, 225, 227, 303, 309, 310, 332, 1403, 1404, 1451, 1452, 1455; 28 U.S.C. 2461 note.

Subpart A---General Rules of Practice and Procedure

2. Section 1.80 is amended by revising the table in Section III of the note to paragraph (b)(8) and revising paragraph (b)(9) to read as follows:

§ 1.80 Forfeiture proceedings.

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(b) * * *

(8) * * *

Note to paragraph (b)(8) * * *

Section III. Non-Section 503 Forfeitures That Are Affected by the Downward Adjustment Factors

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Violation	Statutory amount
	(\$)
Sec. 202(c) Common Carrier Discrimination	\$11,784, \$589/day
Sec. 203(e) Common Carrier Tariffs	\$11,784, \$589/day
Sec. 205(b) Common Carrier Prescriptions	\$23,566

Sec. 214(d) Common Carrier Line Extensions	\$2,356/day
Sec. 219(b) Common Carrier Reports	\$2,356/day
Sec. 220(d) Common Carrier Records & Accounts	\$11,784/day
Sec. 223(b) Dial-a-Porn	\$122,110/day
Sec. 227(e) Caller Identification	\$11,278/violation
	\$33,833/day for each day of continuing violation, up to \$1,127,799 for any single act or failure to act
Sec. 364(a) Forfeitures (Ships)	\$9,819/day (owner)
Sec. 364(b) Forfeitures (Ships)	\$1,964 (vessel master)
Sec. 386(a) Forfeitures (Ships)	\$9,819/day (owner)
Sec. 386(b) Forfeitures (Ships)	\$1,964 (vessel master)
Sec. 634 Cable EEO	\$870/day

(9) Inflation adjustments to the maximum forfeiture amount. (i) Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114-74 (129 Stat. 599-600), which amends the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, Public Law 101-410 (104 Stat. 890; 28 U.S.C. 2461 note), the statutory maximum amount of a forfeiture penalty assessed under this section shall be adjusted annually for inflation by order published no later than January 15 each year. Annual inflation adjustments will be based on the percentage (if any) by which the CPI-U for October preceding the date of the adjustment exceeds the prior year's CPI-U for October. The Office of Management and Budget (OMB) will issue adjustment rate guidance no later than December 15 each year to adjust for inflation in the CPI-U as of the most recent October.

(ii) The application of the annual inflation adjustment required by the foregoing Federal Civil

Penalties Inflation Adjustment Act Improvements Act of 2015 results in the following adjusted statutory maximum forfeitures authorized by the Communications Act:

U.S. Code citation	Maximum penalty after 2018 inflation adjustment
47 U.S.C. 202(c)	\$11,784
	\$589
47 U.S.C. 203(e)	\$11,784
	\$589
47 U.S.C. 205(b)	\$23,566
47 U.S.C. 214(d)	\$2,356
47 U.S.C. 219(b)	\$2,356
47 U.S.C. 220(d)	\$11,784
47 U.S.C. 223(b)	\$122,110
47 U.S.C. 227(e)	\$11,278
	\$33,833
	\$1,127,799
47 U.S.C. 362(a)	\$9,819
47 U.S.C. 362(b)	\$1,964
47 U.S.C. 386(a)	\$9,819
47 U.S.C. 386(b)	\$1,964
47 U.S.C. 503(b)(2)(A)	\$49,096
	\$490,967
47 U.S.C. 503(b)(2)(B)	\$196,387
	\$1,963,870

47 U.S.C. 503(b)(2)(C)	\$397,251
	\$3,666,930
47 U.S.C. 503(b)(2)(D)	\$19,639
	\$147,290
47 U.S.C. 503(b)(2)(F)	\$112,780
	\$1,127,799
47 U.S.C. 507(a)	\$1,945
47 U.S.C. 507(b)	\$285
47 U.S.C. 554	\$870

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